

UNITED STATES DISTRICT COURT

for the

District of New Mexico

United States of America
v.
DANIEL M. SCHIFFMILLER

Case No.

16-MJ-3621

FILED
At Albuquerque NM

SEP 26 2016

MATTHEW J. DYKMAN
CLERK

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 14, 2016 in the county of _____ in the
State and District of New Mexico, the defendant(s) violated:

Code Section

Offense Description

Title 26 USC § 5861(c)
Title 26 USC § 5861(d)

Possession of Firearm Made in Violation of 26 USC Chapter 53
Possession of a Firearm which is Unregistered

This criminal complaint is based on these facts:

See attached affidavit

☒ Continued on the attached sheet.

Complainant's signature

Anthony J. Cipriano, Special Agent, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 9/26/16City and state: Albuquerque NM

Judge's signature

William P. Lynch

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)
)
 V.)
)
DANIEL M. SCHIFFMILLER)
)
)

AFFIDAVIT

I, Anthony J. Cipriano, being first duly sworn, hereby depose and state as follows:

INTRODUCTION

1. I, the undersigned affiant, being duly sworn, hereby depose and state as follows; I am a Special Agent with the Federal Bureau of Investigation, assigned to the Albuquerque Division/Santa Fe Resident Agency, with responsibility for investigating violations of federal law.

2. The information set forth in this affidavit was derived from my own investigation and/or communicated to me by other employees of the FBI, other law enforcement agencies, and from records and documents that I, and others, have reviewed. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

3. I have reason to believe, and do believe, that Daniel M. Schiffmiller (hereinafter DANIEL) possessed an unregistered and unlawful firearm in violation of

Title 26 USC § 5861(c) (Possession of Firearm Made in Violation of 26 USC Chapter 53) and Title 26 USC § 5861(d) (Possession of a Firearm which is Unregistered).

PROBABLE CAUSE

4. On September 14, 2016, the FBI executed a search warrant at Extra Space Storage, Number L12, 875 West San Mateo Road, Santa Fe, NM 87505 as part of an ongoing investigation.

5. The storage unit was rented in the name of Gary Schiffmiller (hereinafter GARY), who is known to the FBI as DANIEL's father. On September 14, 2016, I interviewed GARY who stated that the storage locker was rented for DANIEL's exclusive use.

6. DANIEL has been incarcerated at the Santa Fe County Adult Detention Facility since September 14, 2016. I have listened to a telephone call made from DANIEL to GARY at approximately 3:11 PM on September 14, 2016. During the call, GARY told DANIEL that law enforcement officers had requested consent to search DANIEL's storage locker. GARY asked DANIEL what they would find in the storage locker, to which DANIEL replied, "They're going to find my property." DANIEL made multiple references to the contents of the storage locker as "my property." DANIEL also told GARY that the key to the storage locker could be found in the car driven by DANIEL prior to his arrest. This car had been driven and used primarily by DANIEL prior to his arrest.

7. A subsequent search of the storage unit resulted in the recovery of a firearm that was determined to be a modified shotgun chambered for a .410 shotgun shell

(hereinafter FIREARM). A photograph of the FIREARM is incorporated herein as Attachment A.

8. The FIREARM consists of two components; a barrel and bolt carrier. The barrel is approximately 11.7 inches long. The bolt carrier is approximately 7.8 inches long. The bolt carrier, containing the firing pin, fits into the barrel allowing the FIREARM to function. A function test was conducted which determined that the weapon was capable of being fired. The end of the barrel appears to have been cut in a manner indicating that the FIREARM was intentionally modified. The FIREARM was modified in such a way that resulted in the loss of any serial number that may have existed on any components used to manufacture the FIREARM. No serial number could be found on any component of the FIREARM.

9. Title 26 USC § 5841(b) provides that each manufacturer, importer, and maker shall register each firearm he manufactures, imports, or makes. Each firearm transferred shall be registered to the transferee by the transferor.

10. Title 26 USC § 5845(a) defines a firearm as “(1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such a weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length” The FIREARM meets this definition; it is therefore a firearm subject to the registration requirements of 26 USC § 5841(b) and § 5842(b).

11. Title 26 USC § 5861(d) (Possession of an Unregistered Firearm) provides that it shall be unlawful for any person to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record.

12. A review of Bureau of Alcohol, Tobacco, and Firearms (BATF) registrations pursuant to the National Firearms Act indicates that DANIEL had not registered the FIREARM as required by law.

13. Title 26 USC § 5845(d) defines a “shotgun” as “a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell. The FIREARM is not a “shotgun” so defined, because it is not intended to be fired from the shoulder. However, the FIREARM was made from a shotgun.

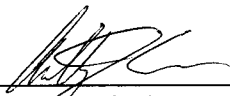
14. Title 26 USC § 5842(b) provides that “Any person who possesses a firearm, other than a destructive device, which does not bear the serial number and other information required by subsection (a) of this section shall identify the firearm with a serial number assigned by the Secretary and any other information the Secretary may by regulations prescribe.” The FIREARM was not so identified.

15. Title 26 USC § 5861(c) (Possession of Firearm Made in Violation of 26 USC Chapter 53) provides that it shall be unlawful for any person to receive or possess a firearm made in violation of the provisions of Title 26 USC Chapter 53. The FIREARM was made in violation of the provisions of Title 26 USC Chapter 53, because it was made from a shotgun as defined by 26 USC § 5845(d) and was not registered as required by Title 26 USC Chapter 53.

16. Any person who violates or fails to comply with Title 26 USC § 5861 shall, upon conviction, be fined not more than \$10,000 or be imprisoned not more than ten years, or both.

17. Based on the foregoing information, I submit that there is probable cause to believe that DANIEL violated Title 26 USC § 5861(c) (Possession of Firearm Made in Violation of 26 USC Chapter 53) and Title 26 USC § 5861(d) (Possession of a Firearm which is Not Registered), because DANIEL was in possession of a firearm made in violation of 26 USC Chapter 53 and this same firearm was not registered to him.

Respectfully submitted,



Anthony J. Cipriano
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me
on: September 26, 2016



UNITED STATES MAGISTRATE JUDGE

Attachment A

Photograph of FIREARM

